In the High Court of Punjab and Haryana, Chandigarh.

Customs Appeal No.7 of 2007

Date of Decision: 18.5.2007

Commissioner of Central Excise Commissionerate, Ludhiana.

…Appellant.

Versus

M/s Jindal Electrical, Ludhiana.

…Respondent.

CORAM: HON'BLE MR.JUSTICE M.M.KUMAR
HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mrs.Daya Chaudhary,
Assistant Solicitor General of India
with Mr.Vibhor Bansal,
Central Government Standing Counsel,
for the Appellant.

JUDGMENT

M.M.KUMAR, J.

Learned counsel for the appellant has argued that the following question of law would arise for our determination:-

> "Whether the Hon'ble Tribunal is justified in dismissing Revenue's appeal even when the provisions of Rule 57-CC of the erstwhile Central Excise Rules, 1944 had already been amended retrospectively vide Section 82 of the Finance Act, 2005, providing mechanism to recover Cenvat Credit wrongly taken along with interest in the same manner, as provided in Rule 57-I of the

erstwhile Central Excise Rules, 1944?"

A perusal of the order dated 27.6.2006 passed by the Customs, Excise and Service Tax Appellate Tribunal, Principal Bench, New Delhi (Annexure P3) would show that the aforementioned question has not been raised by the revenue before the Tribunal. Therefore, the question of law would not emerge from the order of Tribunal which has followed one circular of the Board and its earlier order.

In view of the above, learned counsel for the revenue requests for withdrawal of the appeal with liberty to move the Tribunal by filing appropriate application.

Ordered accordingly.

(M.M.KUMAR)
Judge

May 18, 2007 **(RAJESH BINDAL)**
dkb **Judge**